

Case 6:19-cv-00011-ADA Document 1 Filed 01/10/19 Page 1 of 19

In the United States District Court
District Court For The Western
District of Texas Waco Division

Anthony D'wuan Washington,
Antoinette Washington,
Lakiesha Morrow,
Plaintiffs,

Complaint
Civil Action
No. _____

v.

W19CA011

University of Texas
Medical Branch,
Correctional-Managed
Healthcare,
Texas Department
of Criminal Justice,
Defendants,

FILED

JAN 10 2019

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

This is a civil action authorized by
42 U.S.C. section 1983 to redress the
deprivation under color of state law
of rights secured by the Constitution
of the United States. The Court has
jurisdiction under 28 U.S.C. Section 1343
& 1343(a)(3). Plaintiff seeks dec

relief pursuant to 28 U.S.C. Section 2201 & 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 & Rule 65 of the Federal Rules of Civil Procedure. Plaintiff's also seek's nominal, compensatory & punitive money damages in the amount of \$500,000 each, making it a total of \$1,500,000.

The Western District of Texas Waco Division is an appropriate venue under 28 U.S.C. section 1391(b)(2) because it is where the events giving rise to this claim occurred.

Plaintiff ~~Plaintiffs~~ Anthony Duwan Washington is a prisoner of the State of Texas, Plaintiff Antoinette Washington is his mother, Plaintiff Lakiesha Morrow is his sister. Plaintiff Anthony is housed at the Alfred Hughes Unit in Gatesville, Texas. Plaintiff Antoinette address is 1600 Garnet Lane, Apt #2701, Fort Worth Tx. 76112. Plaintiff Lakiesha

address is 7017 Norman Street, Fort
Worth, Tx 76112.

Defendants

The defendant's are the entire
Neurology Department at John
Sealy Hospital (University of Texas
Medical Branch at Galveston, Texas)
& the entire staff of the Texas
Department of Criminal Justice-
Correctional Managed Healthcare
staff in Huntsville, Tx. The health-
care provider's at the Alfred Hughes
Unit: Dr. Green, Mr. Togo, Mr. Bennett,
Mr. Naisiotis; & Ms. Moore. Each
defendant is sued individually & in
his & her official capacity. At all
times mentioned in this complaint
each defendant acted under the
color of state law.

FACTS

The medical care in the Texas Department of Criminal Justice is so bad that life-threatening situations have occurred on too many occasions to the people in here & elsewhere around T.D.C.J. The Plaintiff Anthony Washington has a very serious 8th-amendment deliberate indifference case/medical malpractice case that also falls under "Americans with Disabilities Act, 42 U.S.C. § 12132. The Plaintiff was told by the healthcare providers Mr. Togo & Mr. Naisioitis that the MRI-scan results show that I have a ^{meaning} minor degenerative condition which that either the bones, joints, disks or muscles is breaking down like arthritis which causes him to have spasms & back pain. The plaintiff had the MRI-scan done in January 2017. Even though those 2 providers have told him this, the doctors/medical students

from the Neurology Clinic at John Sealy Hospital in Galveston saying that the MRI-scan results look normal, basically lying. The Plaintiff has been walking on crutches from June 2016 until November 2017 when Mr. Bennett had taken the crutches from him & taken all of his medical restrictions that was given to him by Mr. Togo & Mr. Naisiotis. The Plaintiff was given the crutches because something was pinching the nerves in his spinal cord leading to tingling & numbness in his legs making it difficult for him to walk. The Plaintiff has been dealing with this problem since December of 2014. He has been prescribed several different kind of muscle relaxers that does not work for him, & he has seen the Physical Therapist back in September 2015 & she has given him some stretching exercises that he has been doing everyday.

For the past 3 years that does not help him control his spasms. In March 20, 2017, he was sent back to John Sealy Hospital to have some nerve tests done, where a needle is stuck in your back that is connected to a computer to determine nerve damage. The doctor had told him that she couldn't detect any nerve damage but she can detect spasms in his back, but the providers back at the Hughes Unit were told that the nerve test were normal. Plaintiff had written over 12 grievances within the past 3 years about his medical condition & he still can't get any proper medical treatment. He is enclosing one of the grievances with this complaint. On 6/28/2017, he was seen by the Hospital Galveston Neurology Telemed, & although they denied him a back brace, they did refer him to the Pain Clinic & Physical Therapy again. But for some

he was never sent to the Pain Clinic & he was denied Physical Therapy. In fact within the last 2 years he has been denied for Physical Therapy over 30 times & he has denied to be given a back brace by the providers over 6 times. We'll in May, June, July & August 2017, he had contacted his mother & sister the other 2 plaintiff's in this complaint/suit, Antoinette Washington & Lakiesha Morrow & they had contacted U.T.M.B - C.M.C in Huntsville about his medical condition, & he had signed a release of information over to them so that they can know everything about his medical situation. It was because of them contacting them that ~~he~~ was interviewed by 2 representative's from the Correctional Managed Health Care Office's in Huntsville.

He had told them everything that was going on with his medical problems in hopes that he can finally get some proper treatment, to no avail. Well January-2018; according to the provider Ms. Moore the condition with his spine is multiple sclerosis of the spine & the provider Mr. Bennett is in agreement with her. Well all 4 providers know that something is wrong with his spine, with that being the case then why can't he be seen by a specialist, chiropractor, orthopedist, physical therapist, why can't he be given a back brace, why can't he receive surgery.

Exhaustion of Legal Remedies

Plaintiff Anthony did use the prisoner grievance procedure at the Alfred Hughes to try & solve this problem on 5/18/2017 & 7/24/2017. Plaintiff Anthony presented the facts relating to this Com. Plaint.

On 7/16/2017 & 8/4/2017; Plaintiff Anthony was sent a response saying that the grievance has been denied. On 7/24/2017 he filed an appeal of the grievance.

Legal Claims

Plaintiffs reallege & incorporate by reference pages 4-8.

The deliberate interference/medical malpractice by defendants of the Plaintiff's medical needs violates his 8th Amendment rights & constituted cruel & unusual punishment under the 8th Amendment to the United States Constitution.

The plaintiff's has no plain, adequate or complete remedy at law to redress the wrongs described. Plaintiff has been & will continue to be irreparably injured by the conduct of ~~the~~ defendants.

Unless this court grants the declaratory & injunctive relief which Plaintiff seeks.

Wherefore, plaintiff respectfully prays that this court enter judgement granting plaintiffs.

A declaration that the acts & omissions described herein violated plaintiff's rights under the Constitution & laws of the United States.

A preliminary & permanent injunction ordering the University of Texas Medical Branch to send him to the Estelle Unit Regional Medical Facility.

Compensatory damages in the amount of \$500,000 against each defendant, jointly & severally.

Punitive damages in the amount of \$500,000 against each defendant.

A jury trial on all issues by
jury.

Plaintiffs' costs in this suit

Any additional relief this court
deems just, proper & equitable.

Dated: January 1st, 2019

Respectfully submitted

Anthony D'wuan Washington #1458201
Hughes Unit 3201 Fm 929
Gatesville, Tx. 76597

Antoinette Washington
1600 Garnet Lane, Apt. #2701
Fort Worth, Tx. 76112

Lakiesha Morrow
7017 Norma Street
Fort Worth, Tx. 76112

Verification

I have read the foregoing complaint & hereby verify that the matters alleged therein are true, except as to matters alleged on information & belief, & as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true & correct.

Executed at Gatesville, Texas on
January 1st, 2019

Anthony Washington
Antoinette Washington
Lakesha Morrow

Anthony Washington
Antoinette Washington
Lakesha Morrow



STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2017139470

Date Received: 05/18/17

Date Due: 07/02/17

Grievance Code: 637

Investigator ID #: 10353

Extension Date: 06.16.17

Date Retd to Offender: JUL 21 2017

Offender Name: Anthony Washington TDCJ # 1458201

Unit: Hughes Housing Assignment: 85-88

Unit where incident occurred: Hughes

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Medical Emergency Grievance When? _____

What was their response? _____

What action was taken? _____

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate.

Genuine issue of material fact as to whether T.D.C.J. policy promulgated by T.D.C.J. U.S. MB C.M.H.C.'s chief medical officer which precluded outside treatment for low back pain & spine condition without the ~~existence~~ existence of collateral symptoms & which prohibited for me to see the Orthopedist & the Pain, Back & spine specialist & Physical Therapy & Massage Therapy to properly treat my low back pain & spine condition was deliberate indifference & medical malpractice to my serious medical needs, & because of this I suffer with daily & constant chronic pain & spasms. Dr. Togo & Ms. Chung & Mr. Natsiotis have identified as serious a condition lumbar vertebrae pain, I have been having great pains over an extended period of time which is why also causes difficulty walking. My lower back pain & spine problems is a source of chronic pain that interferes with my ability to walk, stand, sit & sleep & when I am having or bowel movement & to conduct tasks associated with daily living. This is supported by Dr. Togo, Ms. Chung, & Dr. Natsiotis & Dr. Green. I com

plain of the back pain every day, my condition sufficiently serious to be worthy of comment. I am considered disabled in accordance to the American With Disabilities Act & Rehabilitation Act. The only thing that Dr. Togo, Dr. Green, & Ms. Chung refuse to do is refer me to the Orthopedist, Physical Therapy & refuse to give me a back brace, orthopedic shoes & medical mattress & pillow in which all 3 of them are being deliberately indifferent to my serious medical needs.

Action Requested to resolve your Complaint:

Requesting to be referred to an outside specialist to be properly examined.

Offender Signature: Anthony Washenorton

Date: 5/18/2017

Grievance Response:

Substantiated. You have been seen by HG Neurosurgery Telemed who recommends you keep appointments with the Pain Clinic and a referral to Physical Therapy. The unit provider has not reviewed the notes from this appointment on 6/28/17. I obtained the notes to be scanned into your chart and an appointment scheduled for you, for possible referral to Physical Therapy.

Signature Authority:

Levi Smith

T. Smith RN CNM

Date:

7/16/17

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Signature Authority: _____

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

SEP 12 2017



Texas Department of Criminal Justice

STEP 2 ⁸¹⁶⁻⁷ OFFENDER GRIEVANCE FORM

Offender Name: Anthony Washington TDCJ # 1458201
 Unit: Hughes Housing Assignment: 85-288
 Unit where incident occurred: Hughes

OFFICE USE ONLY

Grievance #: 2017 139470
JUL 24 2017
 UGI Recd Date: JUL 31 2017
 HQ Recd Date: 9-7
 Date Due: 9-7
 Grievance Code: 637
 Investigator ID#: _____
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

Because it has been 2 weeks since I had seen nurse sick call & I still haven't seen the provider about a referral to Physical Therapy & a referral to the Orthopedist about my low back pain condition. I also still have not seen the pain clinic yet either. And I need to make a request instead of seeing the pain clinic via Telemed or TeleHealth, I am requesting to be sent to the Pain Clinic as soon as possible to be properly evaluated & examined because my low back pain also leads to pain in my legs & feet.

Offender Signature: Anthony WashingtonDate: 7/24/2017

Grievance Response:

A review of the Step 1 medical grievance was completed regarding your complaint you have been denied appropriate care and treatment for your severe back pain. You stated you need to see an outside specialist to be properly evaluated.

Review of the health record indicated you have been seen by the specialists at Hospital Galveston (HG). You have underwent Magnetic Resonance Imaging (MRI) of your spine and those results were discussed with you during your most recent Neurosurgery Specialty Clinic appointment. You have been seen in the past by the Physical Therapy Clinic and given a home exercise program to strengthen your back muscles and help relieve your chronic pain. It is noted you have refused muscle relaxant medications when offered. There is no documentation to suggest you require any type of surgical intervention for your complaint of pain. You are receiving conservative treatment by the unit providers. Your most recent assessment by the provider was on 8/1/2017.

All medications, treatments, and referrals are based on the clinical findings of the provider at the time of their assessment. While you maintain the right to refuse any services offered, you do not have the liberty to dictate what medications, treatments, or appointments will be prescribed. If you feel that your condition has changed, or warrants further evaluation, you may wish to submit a Sick Call Request (SCR) to discuss your concerns with a licensed medical provider. No further investigation is warranted through the grievance process for this issue.

STEP II MEDICAL GRIEVANCE PROGRAM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES DIVISION

Signature Authority:

Date: 8-4-17Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

In The United States District Court For The Western District Of Texas Waco Division

Anthony Washington
Antoinette Washington
Lakiesha Morrow,
Plaintiffs

Summons
Civil Action
No.:

V. Ms. Moore, Dr. Green,
Mr. Bennett, Mr. Togo,
University of Texas Mr. Naislots.
Medical Branch,
Correctional Managed
Healthcare,
Texas Department of
Criminal Justice,
Defendants

To the Above-Named Defendants:
You are hereby summoned & required
to served upon plaintiffs, whose address
is Hughes Unit, 3201 Fm 929, Gatesville,
Texas, 76847. an answer to the complaint
which is herewith served upon you,

Within 30 days after service of this summons upon you, exclusive of the day of service, or 60 days if the U.S. Government or officer/agent thereof is a defendant. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of the Court

Date: 1/1/2019

Anthony Washington #1458201
Hughes Unit 3201 Fm 929
Gatesville, Tx 76897



Legal mail